

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
Rules and Regulations Implementing the) CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)

**COMMENTS OF ROBERT H. BRAVER
IN RESPONSE TO 3G COLLECT'S PETITION FOR DECLATORY RULING**

I am writing today in response to the Commission's request for comments on the pending petition of 3G Collect's Petition seeking a declaratory ruling regarding the use of automated mechanisms to complete collect calls initiated to mobile phones.

Congress, via the TCPA, and the Commission, via its regulations, have wisely afforded special protections to wireless service subscribers as to automatically dialed and/or prerecorded message calls. Even purely non-commercial calls, and calls which fall under a high level of free speech protection, such as political calls, are not exempt from the prohibition of automatically dialed calls to mobile numbers absent the *recipient's* prior express consent.

3G Collect's petition fails to make a case as to why its business model should be elevated beyond even constitutionally protected political speech.

While I have not specifically experienced ongoing issues with collect calls, over the years I have received a handful of wrong-number collect calls. However, I have had experiences with multiple and repeated wrong-number calls to my home and mobile phones, which just as easily could have been attempted collect calls.

In one such instance, an area business, which I had already taken to task for TCPA violations some years prior, apparently put my mobile number in a database by transposing digits in their customer's telephone number. The result was multiple automatically dialed, prerecorded calls to my cell phone seeking confirmation of service delivery. The calls did not include a customer service number where they could be reached (in violation of FCC regulations), or a response option to indicate that they had the wrong number. Had this business followed the rules and scrubbed its numbers against the mobile database as required and shunted my call to be manually dialed by an operator, the problem could have been nipped in the bud.

In another instance, for several years I had an ongoing problem with an individual – often inebriated – who would repeatedly call my home number attempting to reach a local liquor store with a similar number. Thankfully, he was not attempting to make collect calls (e.g., from a pay phone) to my mobile phone, but such a scenario surely occurs daily to other mobile phone subscribers.

I have no experience or knowledge of 3G Collect or its business model other than what I have read in 3G Collect's petition. I have nothing against 3G Collect, and have no problem in and of itself with 3G Collect's use of technology and automation to reduce costs which can lead to lower rates to consumers and/or increased profits. However, there is no reason why 3G Collect and its business model should be singled out for preferential treatment when it comes to the protections afforded to mobile subscribers due to the unique privacy and cost concerns with wireless telephone service.

Unlike typical land-line service, mobile calls cost recipients money in terms of per-minute charges, a deduction from a subscriber's pre-paid minutes or post-paid "bucket of minutes" included in most service plans. This cost is incurred regardless of whether a collect call is accepted or not. Furthermore, I can safely and lawfully accept mobile calls while on the road via hands-free headset, but I cannot safely deal with a (perhaps unwanted and unexpected) automated call to my mobile phone which may require interaction via my telephone handset in order to accept, reject, or opt-out of receiving further calls.

The TCPA and the FCC regulations promulgated thereunder clearly prohibit 3G Collect's practice of initiating automatically dialed and/or recorded message calls in the process of attempting to sell a collect telephone call to a mobile telephone subscriber. 3G Collect can comply with these important rules by doing what many other businesses and entities already do, that is, subscribing to the database of mobile numbers, including ported former landline numbers, and shunting such calls to a live operator for completion, while still enjoying the cost savings of automated calls to land-lines.

I thank the Commission for the opportunity to comment on this matter.

Respectfully submitted,

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